IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 120 OF 2006

P.C. Fincap Pvt. Ltd. ...Petitioners

V/s.

State of Maharashtra & Anr. ... Respondents.

Mr. Vaibhav Sugdare instructed by M/s. Thakordas & Madgavkar for the Petitioners

Mrs. A.S. Pai, Additional Public Prosecutor, for Respondent No.1

Mr. Subhash Jha instructed by M/s. Law Global for Respondent No. 2.

CORAM: KSHITIJ R. VYAS, C.J.
DATE: APRIL 21, 2006.

P.C.:-

1. The petitioners have filed this petition under Section 482 of the Criminal Procedure Code, 1973 and under Article 227 of the Constitution of India for quashing Criminal Case No. 2476/03/S of 2003 pending against the petitioners in the Court of the learned Additional Chief Metropolitan Magistrate's 47th Court at Esplanade, Mumbai.

2. The petitioners are registered as sub-brokers of one Integrated Master Securities Ltd. under Code No. INSO10800733/01-0838 of Bombay Stock Exchange. It appears that the husband of one Sushma Singhal made a complaint on 31st January, 2000 with the second respondent in respect of her dealings with the petitioners. Pursuant to the same, the second respondent published a notice in the newspapers advising the general public not to deal with the petitioners. The second respondent filed a complaint before the Additional Chief Metropolitan Magistrate's 47th Court under Section 200 of the Code of Criminal Procedure, 1973 for alleged violation of Section 12 of the SEBI Act and Rule 3 of the SEBI Regulations.

3. The learned counsel appearing for the petitioners submitted that the petitioners are registered sub-brokers with the Bombay Stock Exchange as well as the National Stock Exchange and were dealing through their broker, Integrated Master Securities Ltd. He, by inviting my attention to the allegations made in the complaint, submitted that the main allegation against the petitioners is to the effect that they were dealing in securities as sub-brokers without obtaining Certificate of Registration from the Securities And Exchange Board of India. The learned counsel invited my attention to

the Certificate of Registration obtained by the petitioners dated 10th November, 2000 and the date of the complaint, i.e., 1st November, 2002. It is submitted that the complaint is required to be quashed on the sole ground that on the date of filing of the complaint, the petitioners had already obtained the Certificate of Registration from SEBI.

4. The learned Additional Public Prosecutor, on the other hand, submitted that the impugned transactions are prior to the date of obtaining the Certificate of Registration.

5. Having considered the arguments advanced before me, I am of the opinion that no case is made out to quash Criminal Case No. 2476/03/S of 2003 pending against the petitioners. It is apparent on record that the petitioners obtained the Certificate of Registration on 10th November, 2000 and the complaint is brought against the petitioners subsequent in point of time from the date of registration. The allegation made in the complaint is that the transactions with the petitioners are of 1999, prior to the date of registration. In view of the same, the petitioners were not holding any valid Certificate of Registration. In view of this, I see no merit in this case. The petition is rejected.

CHIEF JUSTICE